

“BOOKIES” CASE ON APPEAL

DOES ORAL BETTING CONSTITUTE BOOKMAKING?

The Lower Courts Decided That It Did Not and the District Attorney of Kings County Takes the Case to the Court of Appeals—The Arguments Begun.

ALBANY, Oct. 11.—The question whether oral betting constitutes bookmaking was argued before the Court of Appeals this afternoon. Orlando Jones and Sol Lichtenstein, formerly bookmakers, were indicted in Kings county on the charge of bookmaking soon after the Hughes anti-racetrack gambling laws went into operation. They were charged with orally laying and publishing odds and accepting a bet as a basis of such odds. The Kings county District Attorney's office conducted the prosecution and lost in the lower courts, the discharge of the two men having been ordered. The District Attorney is seeking the decision of the court of last resort on this point:

“It is the circumstance that odds are laid and that these odds are made or sought to be made the basis of betting that constitutes the bookmaking and distinguishes this style of gambling from all other styles. Accordingly, whenever a man is seen laying odds on a horse race or on a racetrack, for example, to various other circumstances that show that he is trying to get bets on the basis of those odds, this is the strongest kind of proof that he has an arrangement of odds in his mind and that he is engaged in bookmaking. It is not necessary that his odds should be published by being actually written down in a book or in any other way.”

Counsel for Jones and Lichtenstein, Joseph S. Auerbach and John B. Stanchfield, urged that the contention of Assistant District Attorney Elder that section 361 of the Penal Law renders criminal the mere act of betting is an attempt to obtain by judicial decision legislation which the Legislature when passing the so-called Agnew-Hart anti-racetrack gambling law expressly rejected. It was pointed out that the proposed legislation originally provided the making of or recording of the bet upon a race-course a crime, but that these bills were withdrawn by their own advocates and substitute bills were introduced and passed designed to apply a uniform penalty to the recording and registry of bets wherever made.

“Under the construction of the District Attorney,” said counsel, “the man who is in the habit of betting a box of golf balls on the result of an afternoon's game in the field or the friend who from time to time stakes a dinner on the result of some race has been guilty of a felony.”

“No prosecution, however, of such a character was ever seriously brought in this State, and hence either the universal acceptance of the meaning of section 361 of the Penal Code has been based on an error and all the State's prosecuting officers have been grossly lax in their duties or else the construction which some prosecuting officers are now urging, with what one might not improperly characterize as undue zeal in connection with racing is error and the uniform opinion of the State for the past twelve years has not been mistaken.”

In his argument Assistant District Attorney Robert H. Elder contended that bookmaking is the gambling scheme which consists of the laying of odds for the purpose of getting bets, and that while memoranda might be very useful as an aid to the person who conducts the business, yet it is no essential part of the transaction itself.

“It is not necessary,” he insisted, “that a bet should be made or accordingly recorded in order for bookmaking to be engaged in. The bookmaking has solely to do with the arrangement of the odds and their publication for the purpose of getting bets. It is absolutely impossible that there should be any bookmaking without some sort of odds and publication of odds.”

Counsel for the bookmakers in their brief reserved the question of the constitutionality of the laying of odds for the purpose of determining in other proceedings, presumably the litigation growing out of the indictments recently found in connection with Shephard Bay betting.

OFFICE MADE PERMANENT.

All Deputy Attorney-Generals Under \$5,000 Salary in Competitive Class.

ALBANY, Oct. 11.—Deputy Attorney-Generals who get \$3,000 a year or less receive permanent employment by the action of Gov. Hughes to-day in approving resolutions adopted by the State Civil Service Commission classifying in the competitive class all positions of Deputy Attorney-General the salary of which is less than \$3,000.

The result of the commission's resolution is the placing in the competitive class of six deputyships, four of which are now occupied by Charles Mann Stern of Albany, whose annual salary is \$2,400; Bryant Willard of New York, Franklin Kennedy of Buffalo and Edward A. Gifford of Athens, N. Y., each of whom receive \$2,500 a year. There are two vacancies which will be filled by competitive action to be called by the commission at an early date. This will be a general examination, held in practically all of the larger cities of the State.

Delegates to Farmers National Congress.

ALBANY, Oct. 11.—Gov. Hughes to-day, pursuant to a request that the State of New York be represented at the Farmers National Congress, appointed as the delegates to that State to attend the congress, which will be held in Raleigh, N. C., beginning on November 4, the following: George A. Pearson, Frank H. Godfrey of Olean, Master of the State Grange; William C. Barry of Rochester, B. J. Case of Solus, E. Gatepole of North Rose, Clayton C. Taylor of Lawton Station, Elliot B. Norris of Solus, Thomas B. Wilson of Halle Corners and Almon R. Eastman of Waterville.

AS TO COAL AND PHOSPHATE.

Secretary Ballinger Says They Should Be Saved for Home Use.

SAN FRANCISCO, Oct. 11.—Secretary of the Interior Ballinger gave out the following statement here to-day: “The disposition of the phosphate lands of the Rocky Mountain States presents emergencies calling for legislation. All the known areas of phosphate lands in the public domain are now under temporary reservation awaiting Congressional action. Young Gray testifies that this fertilizer be disposed of with such restrictions as will require its domestic use, so far as possible, in the renewal of the fertility of the American farm, rather than permit its exportation.”

“Respecting coal lands, since 1906 no coal land entries have been permitted to be made in Alaska, pending requests upon Congress for legislation to prevent the monopolization of the vast fields of this valuable depositing in this territory, and to secure authority for permanent reservation for naval purposes.”

Safe Blowers Rob Texas Bank.

DALLAS, Tex., Oct. 11.—Robbers blew open the safe of the First National Bank of Lewisville last night and escaped with \$6,000 in money and \$600 in Government bonds. They overlooked a package of \$10,000 in currency and a package of \$10,000 in money and \$600 in Government bonds made it appear as if the five mounted men in the gang

BRITAIN'S WAR WARNING.

Mariners of the World Cautioned to Look Out for Port Obstructions.

PHILADELPHIA, Oct. 11.—A circular was issued from the office of the British Consul, Wilfred Powell, in this city to-day which aroused much curiosity. The circular reads in part as follows:

“NOTICE TO MARINERS.

“CAUTION WHEN APPROACHING BRITISH PORTS.

“1. My Lords Commissioners of the Admiralty having taken into consideration the fact that circumstances may arise in which it may be necessary, on account of periodical exercises, manoeuvres or otherwise, to forbid all entrance to naval ports at night, this is to give notice that on approaching the shores of Great Britain or any part of the British Empire, if searchlights are observed to be in constant operation the naval ports should be approached with caution, and that it may be apprehended that obstructions may exist outside or that the entrance may be altogether closed.

“If an entrance to a port is closed three red vertical lights by night or three red balls by day will be exhibited in some conspicuous position in or near to its approach, and as far as possible notice of this fact will be given by lookout vessels in the offing.

“In this case vessels must either proceed to the position marked ‘examination anchor’ or ‘examination light’ and anchor there or keep the sea.

“In the event of relations becoming strained between this country and any naval power, it may become necessary to take special measures to examine vessels desiring to enter the ports or localities in the United Kingdom and its Majesty's possessions abroad mentioned at the end of this notice.

“In such cases vessels carrying the distinguishing flags or lights mentioned in paragraph 4 will be charged with the duty of examining ships which desire to enter the ports and of allotting positions in which they shall anchor.

“As the institution of the examination service at any port will never be publicly advertised, special care should be taken in approaching the ports by day or night at such times of strained relations to keep a sharp lookout for any vessel carrying the above mentioned flags or lights, and to be ready to ‘bring to’ or ‘stop’ when hailed by her or warned by the firing of a gun.

“4. By day the distinguishing flags of the examination steamer will be a special flag (white and red horizontal surrounded by a blue border) and a blue ensign. Also three red vertical balls if the port is closed.

Referring to the circular Consul Powell said:

“The notice should be given widespread publicity and mariners all over the world should be put in immediate knowledge of this action on the part of my Government as fraught with the utmost importance.

“There may be obstructions in these harbors. Of course this does not mean that my Government will declare war in the future with any other Power, but these precautions are taken in the event of any such step.”

SERMON MOVES YOUNG WOMAN.

She Says She Kept a Resort in Detroit—Rescued From Suicide.

UTICA, Oct. 11.—At the conclusion of a sermon preached in the Baptist church in Little Falls last night by the pastor, the Rev. Henry G. Cooper, on the subject, “Which, Business or Bettle, Home or Hell?” a young woman stepped up to the minister, handed him a note and quickly left the edifice. This is what the clergyman read in the note:

“I thank you for your sermon. I do not know what ever made me go into your church, as I am the proprietor of a resort in Detroit, Mich. After hearing you, I cannot go back again. I don't know what I'll become of me, but I cannot go back. Oh, please warn the young girls from such a life, as it really is only death in the end. I shall end my life to-day, as I have nothing to live for now, and I have gone too far ever to be saved. Yes, my sins are as scarlet, but I don't wish other young girls to have to go through what I have. I have a lovely Christian mother in Battleboro, Vt. Mr. Gow is her pastor. I have not seen her for over five years. She thinks me dead, and it is better so. Warn others for my sake.”

The minister promptly notified the police and after an all night search the young woman was found roaming the streets of the city. To-day she was turned over to a Christian family and later she will be sent to her mother's home in Battleboro, Vt. She gives the name of Mrs. Florence Hunter and says she left Detroit a few days ago for the express purpose of killing herself when she reached the East. She is well supplied with money.

HIS MONEY TO FRIENDS.

F. S. Kinney's Lost Son Disposes of What His Father Left Him.

JOEL KINNEY, son of the late Francis S. Kinney, the cigarette manufacturer, disappeared from home fifteen years ago, and got only \$50,000 by the will of his father. His own will was filed for probate here yesterday. He was found in Los Angeles last year by lawyers employed by the executors of his father's will, and he died there a few days ago.

The testator gives half of his estate to Edgar R. Mills and the other half to Mrs. Mary Elizabeth Mills, Edgar's mother, who lives near Asbury Park. He says that Mills has been his friend and companion for seven years and has rendered him many valuable services. “I have too very high regard for my friend's mother,” says the testator, “and as she is dependent upon her son for support I bequeath to her one-half of the estate.”

The testator said he made no provision for his brothers, Warren and Morris, and his sister, Mrs. Rose, because they were well provided for under their father's will. They inherited the residue of the estate, valued at about \$12,000,000.

ON TRIAL FOR PATRICIDE.

Young Gray Tells on the Witness Stand of Killing His Father.

FLEMINGTON, N. J., Oct. 11.—William H. Gray was placed on trial here to-day before Judge Alfred Reed for the murder of his father, John Gray, at Rosemont on June 13 last. There were no eyewitnesses to the shooting. Gray had pleaded not guilty to the indictment.

Gray began testifying in his own behalf this afternoon. He said that the trouble which led to the shooting began when young Gray endeavored to drive a cow into the barn to escape an approaching thunder storm. The father objected, the defendant testified, and the father tried to kill both himself and his mother. Gray and his mother decided to leave home and the father attacked him by hurling stones. Young Gray testified he fired two shots, one of which caused death within a few minutes. He said that he fired low and did not mean to kill his father but meant only to stop his advance and protect himself.

FISHERIES CASE ALL READY.

Canada's Counsel Before the Hague Tribunal on a Visit to Ottawa.

OTTAWA, Oct. 11.—The Hon. Mr. Aylesworth after four months absence in England is back in Ottawa. He spent the summer working on the joint case of Newfoundland and Canada in connection with the Atlantic fisheries dispute with the United States to be submitted to the Hague tribunal for adjudication next April.

Before he left London the case was complete in every particular and statements of the claims by each side had been formally exchanged.

RUN OVER ON THE STREET.

Two Small Boys Killed, One by Trolley Car and One by a Truck.

Albert Hedland, 4 years old, of 301 West 184th street, was crushed to death yesterday afternoon at 135th street and Eighth avenue by a northbound Eighth avenue car. The boy was playing in the gutter, and as the car came along suddenly darted in front of it. Motorman Tim Galvin threw on the airbrakes, but could not save the boy. It took a wrecking crew half an hour to get the body out.

Motorman Galvin, who lives at 783 Amsterdam avenue, was allowed to run his car to the end of the line, then he was made a prisoner and taken before Coroner Shady, who paroled him to await an inquest.

Max Miller, 3 years old, ran in front of a loaded paper truck near his home at 183 Madison street yesterday noon and was run over, his chest being badly crushed. The boy was taken to Gouverneur Hospital, where he died three hours later. The driver, Barney Birnbaum, of 42 Gouverneur street, was held by Coroner Shady in \$1,000 bail for the inquest.

Walter Sutherland, 8 years old, of 142 West End avenue, was struck by a touring car owned by Mrs. W. H. Young of Tuxedo Park and driven by William McFadden, her chauffeur, on West Sixty-eighth street yesterday afternoon. The boy was taken to the automobile hospital and driven to the Roosevelt Hospital. There it was found that he had a fractured skull but with good prospects of recovery.

McFadden was taken to the West Side Police Court, where he was held in \$1,000 bail for examination. Mrs. Young furnished bail for him.

Early Overcoats

In an experience of a great many years we have never seen better looking Overcoats than those we have put on the backs of satisfied customers so far this season.

They fit perfectly and have a style that is all their own.

\$15.00 to \$45.00.

The range of fabrics is unlimited, and we have half a dozen styles that are, we think, exceptionally attractive.

Browning, King & Company

Broadway at 32nd Street

Cooper Square at 5th Street

Fulton Street, Brooklyn

DIAMONDS

5 16 \$17

CARAT

TUESDAY, OCTOBER 12TH, I shall offer 36 Solitaire Diamond Rings, the weight of each one is 5-16 of a carat, at \$17 each. They are all blue white and full of fire and will be sold with the distinct understanding that the money will be refunded in full for any one that can be duplicated elsewhere for less than \$30 or in any other respect unsatisfactory. In regard to the list below we have no duplicates, therefore mail orders should come in without delay:

Weights. Special. Price. Weights. Special. Price.

Carats. Carats. Carats. Carats.

2 1/2 - 5 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2

1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2 1 1/2 - 3 1/2



There are two sides to the question of rain protection.

We're strong on both.

There's the rubber or rubberized coat, absolutely impervious to a downpour. But as rubber is airtight, bodily heat and moisture cannot escape and often dampen the inside of the coat, beside making the wearer uncomfortably hot. Still, it is water-tight, and in the modern loose English style we sell them by the hundreds and have a big stock. \$15 to \$25.

The woolen raincoat is the other side of picture. Proof against any ordinary shower but not absolutely water-tight. In the “Cravenette Process” no rubber is used and the pores of the cloth are left open for normal circulation. Of these two, we have a very large stock in fine all-wool fabrics, and sell them by hundreds. \$20 to \$35.

Which coat is best for you depends upon what you want to use it for.

Whichever coat you choose, “Double” shoes should go with it.

Black calf business shoes—double thickness of water-proof leather throughout, cork filling between the soles, oiled silk turned into the seams where water is apt to get in. \$5.50.

“Martin” umbrellas are generally held the finest umbrella made in England—the greatest umbrella country.

We just received a new importation of these “Martin” umbrellas.

\$12.50 to \$16.50 each.

Other hands across the sea have just sent us evening dress shirts from Paris, and English underwear.

See our windows to-day.

ROGERS PEET & COMPANY.

Three Broadway Stores.

at at at

Warren st. 13th st. 34th st.

AMUSEMENTS.

NEW YORK'S LEADING THEATRES AND SUNDRIES.

NEW AMSTERDAM Theatre, 42d St. West of B'way. Best Seats \$1.50.

HENRY W. 43d St. W. of B'way. Best Seats \$1.50.

SAVAGE 44th St. W. of B'way. Best Seats \$1.50.

OFFER THE 45th St. W. of B'way. Best Seats \$1.50.

with Chas. J. Ross and Lisa Abarbanel.

NEW YORK Theatre, B'way & 48th St. Best Seats \$1.50.

RAYMOND 49th St. W. of B'way. Best Seats \$1.50.

HITCHCOCK 50th St. W. of B'way. Best Seats \$1.50.

THE MAN WHO OWNED BROADWAY 51st St. W. of B'way. Best Seats \$1.50.

LIBERTY Theatre, 42d St. W. of B'way. Best Seats \$1.50.

LILLIAN RUSSELL 43rd St. W. of B'way. Best Seats \$1.50.

THE WIDOW'S MONT. 44th St. W. of B'way. Best Seats \$1.50.

FREDERICK THOMPSON 45th St. W. of B'way. Best Seats \$1.50.

NELL SPRINGTIME 46th St. W. of B'way. Best Seats \$1.50.

By Booth, Farnham, and Harry Lee Wilson.

GAITY 47th St. W. of B'way. Best Seats \$1.50.

AMERICAN COMEDY BY WINCHELL SMITH.

FORTUNE HUNTER 48th St. W. of B'way. Best Seats \$1.50.

With JOHN HARTWELL.

CIRCLE Theatre, B'way & 50th St. Best Seats \$1.50.

McINTYRE & HEATH 51st St. W. of B'way. Best Seats \$1.50.

IN HAYTI LAST WEEK.

JOE WEBER'S THE CLIMAX 52nd St. W. of B'way. Best Seats \$1.50.

EMPIRE 53rd St. W. of B'way. Best Seats \$1.50.

CRITERION 54th St. W. of B'way. Best Seats \$1.50.

ROBERT EDSON 55th St. W. of B'way. Best Seats \$1.50.

THE OUTPOST 56th St. W. of B'way. Best Seats \$1.50.

GARRICK 57th St. W. of B'way. Best Seats \$1.50.

HATTIE WILLIAMS 58th St. W. of B'way. Best Seats \$1.50.

KNICKERBOCKER 59th St. W. of B'way. Best Seats \$1.50.

THE DOLLAR PRINCESS 60th St. W. of B'way. Best Seats \$1.50.

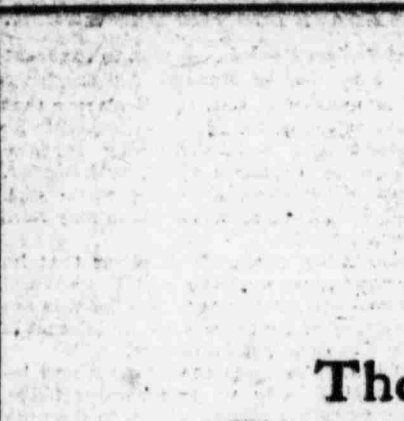
LYCEUM 61st St. W. of B'way. Best Seats \$1.50.

THE FAMOUS ARSENE LUPIN 62nd St. W. of B'way. Best Seats \$1.50.

SAVOY 63rd St. W. of B'way. Best Seats \$1.50.

MARGARET ANGLIN 64th St. W. of B'way. Best Seats \$1.50.

THE AWAKENING OF HELENA RICHIE 65th St. W. of B'way. Best Seats \$1.50.



The Good-Will of Two

Businesses---Ours and Theirs.

One of our solicitors said to the writer the other afternoon: “We've been telling business men for the past six months or so the importance of good-will in their business. Now let us come out plainly and tell them what we mean—and how to secure this good-will.”

That sounded good. So our whole organization was asked to turn in its views on this subject. Here they are: